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STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			CHANNAVAJALA, SRIRAMA T	
			ART UNIT	PAPER NUMBER
			2177	7

DATE MAILED: 02/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/864,260

Applicant(s)

KIDO, TOSHIHARU

Examiner

Srirama Channavajjala

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 15 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Response to Amendment***

1. Examiner acknowledges applicant's amendment filed on 1/15/2004, paper no.6.
2. Claims 1-56 are pending in this application.
3. Claims 1,11-15,21,34-50 have been amended, paper no. # 6.
4. Claims 51-56 have been added, paper no. # 6.
5. Examiner acknowledges applicant's "new Abstract" at page, paper no. # 6.

***Drawings***

6. The drawings filed on 8/4/2002 are approved by the Draftsperson under 37 CFR 1.84 or 1.152.

***Information Disclosure Statement***

7. The information disclosure statement filed on 8/13/2001, paper no. # 2, 6/12/2002, paper no. # 3, has been considered, a copy of PTO-1449 is herewith enclosed with this office action, paper no. # 4.

***Priority***

8. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d) based on Japanese Patent Application No. 2000-374801 filed on 12/8/2000. The certified copy has been filed in parent Application No. 09/864,260, filed on 5/25/2001.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claims 11-14,15-20, 52 are rejected under 35 U.S.C. 101 because invention is directed to non-statutory subject matter.

An Apparatus claim(s) 11-14 recite only steps, which are not in the Technological arts in that they fail to recite the steps as executed on or by a Computer.

An Apparatus claim(s) 11-14, An Apparatus comprises a control unit, a storage unit and the functional attributes thereof. The two units appear to be software per se, failing to be tangibly embodied.

A system Claim(s) 15-20,52 recite only steps, which are not in the Technological arts in that they fail to recite the steps as executed on or by a Computer.

For system Claim(s) 15-20, 52, the system comprises search unit, sequence determining unit, control unit and the functional attributes thereof. These units appear to be software per se, failing to be tangibly embodied.

Further, Claims 11-14,15-20,52 do not produce a useful, concrete, tangible result in the Computer technological arts. The invention as disclosed and claimed does not promote the progress of the useful arts. Accordingly independent Claims 11,15,52 do not define statutory subject matter.

In analyzing Claims 11,15,52, for patent eligible subject matter, it is useful to first answer the question ***“What did applicant[s] invent?”*** In re Abele, 214 USPQ 682

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(CCPA 1982). While the preamble for example Claim 7,33,68 characterizes the invention as "**An Apparatus comprising:**" "**A system comprising:**" a careful reading of the specification reveals that the applicant's invention can be best described as a System and /or an Apparatus to searching, collecting and storing that satisfy control and storage unit.

Having determined in general what the invention is, we must analyze it under the prevailing case law. The statute itself allows for the patenting of method, apparatus, and processes. However, it has been determined in many contexts that not all processes, methods, and apparatus set forth patent eligible subject matter. One test that has recently been applied is whether the invention produces a useful, concrete, tangible result. See e.g., States Street Bank & Trust Co. v Signature Communications Inc., 47 USPQ2d 1596 (Fed. Cir. 1998); AT&T Corp. V Excel Communications Inc., 50 USPQ2d 1447 (Fed. Cir. 1999). Under that test, the invention must have practical utility, it must produce an assured result, and it must not be merely an abstraction lacking in physical substance

As explained above, examiner further noted that the term or phrase "technological arts" is synonymous with the phrase or term "useful arts" as it appears in Article I, section 8 of the Constitution. *In re Waldbaum*, 173 USPQ 430 (CCPA 1972). And for a claim to be statutory, it must be in the technological arts. *In re Musgrave*, 167 USPQ 280 (CCPA 1970) and *In re Johnston*, 183 USPQ 172 (CCPA 1974)

Claims 12-14,16-20 dependent on Claims 11,15 are also rejected in the analysis above and rejected on that basis.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-56 are rejected under 35 U.S.C. 102(a and b) as being anticipated by Legall, et al., WO 98/43183.

11. As to Claims 1,21,35, 51, 53,55, Legali teaches a system which including 'an information processing system' [fig 1], 'a storage unit storing information' [fig 1, element 130], storing unit corresponds to Legall's memory as detailed in fig 1, 'a control unit' [fig 1, element 130], control unit corresponds to Legall's CPU, element 130, page 4, line 14-16, 'wherein said control unit searches locating information for locating where data exists, and judges whether or not the data located by the locating information comes under a predetermined category' [page 4, line 18-25, page 5, line 1-2, line 8-13, page 8, line 8-12, fig 3C],based on a character string included in a data file including the data' [page 8, line 2-10], Legall specifically teaches categories, sub categories that including data or topic or information listed based on the user query, character string

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corresponds to user query having keyword(s); 'said storage unit, when the data is judged to come under the predetermined category, stores the locating information to collect pieces of locating information for locating where the data exist' [page 7, line 19-26, page 8, line 1-8].

12. As to Claim 2, Legall teaches a system which including 'a communication unit for accessing a network, or a communication connection module through which said communication unit is connected' [fig 3A, page 7, line 9-15], Legall specifically teaches for example search tool or search engine that interacts with different information resources such as internet, cable broadcast, satellite broadcast that corresponds to communication connection or communication unit for accessing a network, 'control unit searches the locating information retained in other information processing system on the network' [page 6, line 2-4, 19-27, page 7, line 1-5, fig 3a-3b], Legall directed to searching on network, more specifically searching information using Internet such as Yahoo that corresponds to information processing, querying or searching on the network, further Legall also suggests user can switch from one web site to another seamlessly for searching required information as detailed in page 6, line 19-27.

13. As to Claim 3, Legall teaches a system which including 'communication unit receives a selection criterion for selecting the data' [fig 3A], 'control unit judges whether or not the data is coincident with the selection criterion and collects pieces of locating

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information tracing to the data coincident with the selection criterion'

[fig 3Bpage 7, line 9-24].

14. As to Claim 4, 38, Legall teaches a system which including 'input unit receives an input of the selection criterion for selecting the data' [fig 1, element 115, fig 3A-3B, line 18-25] selection criterion for selecting the data corresponds to fig 3A, element 314; 'control unit judges whether or not the data is coincident with the selection criterion and collects pieces of locating information tracing to the data coincident with the selection criterion' [fig 3B, page 7, line 9-24].

15. As to Claim 5, 45, Legall teaches a system which including 'communication unit receives a request for collecting the locating information from a terminal device connected to the network' [fig 1], 'control unit gets the collected locating information displayed on said terminal device' [fig 3B].

16. As to Claim 6,12,25-26,31, 39-40, Legall teaches a system which including display unit for displaying the information, or a first connection module through which said display unit is connected' [fig 1, fig 3B], Legall specifically teaches displaying various information based on user search criterion as detailed in fig 3B, 'control unit gets the collected locating information displayed on said display unit' [page 7, line 23-26, page 8, line 1-2, fig 3B].



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17. As to Claim 7, 10, 14, 27, 41, Legall teaches a system which including 'control unit searches character information related to the data, and gets the character information displayed in a way of being combined with the locating information' [page 8, line 1-6, line 17-20].

18. As to Claim 8, 28, 42, Legall teaches a system which including 'categories of the data are still image data, sound data, animated image data, text data, or combinations thereof' [page 7, line 23-26].

19. As to Claim 9, 13, Legall teaches a system which including 'an input unit' [fig 1, element 115], 'a display unit displaying information, or a first connection module through which said display unit is connected' [fig 1, fig 3B], display unit corresponds to fig 1, element 120, Legall specifically teaches displaying various information based on user search criterion as detailed in fig 3B, 'a sound output unit outputting sounds, or a second connection module through which said sound output unit is connected' [page 7, line 25-26, fig 3A, element 328], sound output unit outputting sounds corresponds to fig #A, element 328; 'wherein said control unit, when commanded to output the data via said input unit, gets the content described by the data outputted to said display unit or said sound output unit' [fig 3A, line 15-26].

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20. As to Claim 11, Legall teaches a system which including 'a control unit requesting a server on a network to collect pieces of locating information for locating where data exist, the data located by the locating information coming under a predetermined category' [fig1-2, page 2, line 14-21, page 5, line 19-25, page 8, line 10-13, Abstract,], control unit corresponds to Legall's CPU, element 130, page 4, line 14-16; predetermined category corresponds to variety of categories and subcategories as detailed at page 8, line 10-13; as best understood by the examiner, Legall teaches internet, more specifically searching information on internet using search engines, search engine connected though either Internet or www or cable broadcast, or satellite broadcast or combination of thereof as detailed in fig 3A, element 312,310 and 308; 'a storage unit storing the locating information located' [fig 1, element 130], storing unit corresponds to Legall's memory as detailed in fig 1.

21. As to Claim 12, Legall teaches a system which including 'display unit displaying the information, or a first connection module through which said display unit is connected' [see fig 1, element 120], 'wherein said control unit gets the collected locating information displayed on said display unit' [see fig 1, fig 2-3].

22. As to Claim 15, 34,48, 52,54,56, Legall teaches a system which including 'a communication unit accessing a network, or a communication connection module through which said communication unit is connected' [fig 3A, page 7, line 9-15], accessing a network or communication connection corresponds to Legall's search

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engine connected though either Internet or www or cable broadcast, or satellite broadcast or combination of thereof as detailed in fig 3A, ELEMENT 312,310,308; 'a search unit searching content data corresponding to predetermined conditions' [page 12, line 2-7, page 13, line 6-15, fig 2-3], Legall specifically teaches using search engines user can issues specific predetermined condition(s) for a specific information as detailed in page 12, line 2-7, page 13, line 6-15, 'based on a character string included in a data file including the content data on the network' [page 8, line 2-10], Legall specifically teaches categories, sub categories that including data or topic or information listed based on the user query, character string corresponds to user query having keyword(s); 'a storage unit storing the locating information located' [fig 1, element 130], storing unit corresponds to Legall's memory as detailed in fig 1; 'a sequence determining unit determining a sequence of reproducing the content data searched' [see Abstract, page 11, line 3-17], Legall specifically teaches for example multiple web sites that met the search criteria are being presented such as web site URL(s) as detailed in page 11, line 9-13, 'a reproduction control unit controlling the reproduction of the content data in accordance with the reproducing sequence' [page 11, line 17-26, page 12, line 1-7];

Further as to Claim 54,56 limitation 'searching content data coincident with a predetermined condition' [col 11, line 9-16], Legall specifically teaches firstly search is performed on the EPG using search tool as detailed at page 10, line 24-25, secondly, search or query may be performed using keywords and combination of logical operators

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or simply operators such as AND, OR, NOT and like that corresponds to search predetermined condition as detailed in page 13, line 8-11; thirdly, data coincident with predetermined condition is integral part of Legalli's teaching because the search results produce multiple result(s) that meet search search criteria as detailed in page 11, line 9-13.

23. As to Claim 16, Legall teaches a system which including content data are retained in other system accessible via a network' [see fig 3A], network corresponds to Internet or WWW.

24. As to Claim 17, Legall teaches a system which including 'predetermined condition is specified by a user' [page 9, line 2-18].

25. As to Claim 18, Legall teaches a system which including 'predetermined condition is to specify a specific genre of the content' [page 9, line 19-25].

26. As to Claim 19, Legall teaches a system which including 'predetermined condition is to specify a specific data category' [page 10, line 3-5].

27. As to Claim 20, Legall teaches a system which including 'content data are stream data' [page 11, line 3-13].

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28. As to Claim 22, 36, Legall teaches a system which including ' data are stored in an information processing system on the network' [see fig 1-3].

29. As to Claim 23-24, 33, 37, 47, 49-50, Legall teaches a system which including 'receiving a selection criterion for selecting the data' [page 6, line 21-25], 'judging whether or not the data is coincident with the selection criterion, wherein pieces of locating information tracing to the data coincident with the selection criterion are collected' [fig 3B, page 7, line 9-24].

30. As to Claim 29,32, 43, 46, Legall teaches a system which including 'selecting the data indicated by the locating information' [page 6, line 24-27, page 7, line 1-5], 'giving a command to output the data' [page 8, line 17-26]. 'outputting the content ' [fig 2], Legall specifically teaches displaying the content that corresponds to outputting the content on the screen or window.

31. As to Claim 30, 44, Legall teaches a system which including 'collecting locating information for indicating a location of data' [page 12, 2-6], location information corresponds to station number ID as detailed in page 12, line 4, 'requesting a server on the network to collect pieces of locating information for locating where data exist, the data located by the locating information coming under a predetermined category' [page 8, line 1-12, fig 3B], 'receiving the locating information' [page 11, line 9-13].

***Response to Arguments***

32. Applicant's arguments filed on 1/15/2004 have been fully considered but they are not persuasive, for examiners' response, see discussion below:

a) At page 14, Claims 11-14, 15-20, 52, regarding 35 USC 101 rejection, Examiner maintains rejection, because invention is directed to non-statutory subject matter, also because as explained above, Claims 11-14, 15-20 do not produce a useful, concrete, tangible result in the Computer technological arts. The invention as disclosed and claimed does not promote the progress of the useful arts. Accordingly independent Claims 11, 15, 52 do not define statutory subject matter.

In analyzing Claims 11, 15, 52, for patent eligible subject matter, it is useful to first answer the question ***"What did applicant[s] invent?"*** In re Abele, 214 USPQ 682 (CCPA 1982). While the preamble for example Claim 7, 33, 68 characterizes the invention as ***"An Apparatus comprising:"*** ***"A system comprising:"*** a careful reading of the specification reveals that the applicant's invention can be best described as a System and /or an Apparatus to searching, collecting and storing that satisfy control and storage unit.

Having determined in general what the invention is, we must analyze it under the prevailing case law. The statute itself allows for the patenting of method, apparatus, and processes. However, it has been determined in many contexts that not all processes, methods, and apparatus set forth patent eligible subject matter. One test that has recently been applied is whether the invention produces a useful, concrete, tangible result. **See e.g., States Street Bank & Trust Co. v Signature**

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**Communications Inc.**, 47 USPQ2d 1596 (Fed. Cir. 1998); **AT&T Corp. V Excel**

**Communications Inc.**, 50 USPQ2d 1447 (Fed. Cir. 1999). Under that test, the invention must have practical utility, it must produce an assured result, and it must not be merely an abstraction lacking in physical substance

As explained above, examiner further noted that the term or phrase “technological arts” is synonymous with the phrase or term “useful arts” as it appears in Article I, section 8 of the Constitution. *In re Waldbaum*, 173 USPQ 430 (CCPA 1972). And for a claim to be statutory, it must be in the technological arts. *In re Musgrave*, 167 USPQ 280 (CCPA 1970) and *In re Johnston*, 183 USPQ 172 (CCPA 1974)

Claims 12-14,16-20 dependent on Claims 11,15 are also rejected in the analysis above and rejected on that basis.

In response to Applicant’s amendment and remarks, concerning the 35 USC 102 (a and b) rejection of Claims 1-56, as being clearly anticipated by Legall et al., Examiner notes the following:

It is noted that Applicant’s remarks, at pages 14-15 of the response, are merely conclusory statements, without any support. Applicant is merely repeating the language of the claim, without addressing Examiner’s particular interpretation of the reference, as presented in the previous office action, paper no. # 4, and without specifying how the instant amendments address the issues raised by Examiner.

b) In response to Applicant's repeated assertions in the remarks at page 15, claims 21,34,48 that "Legall does not discuss or suggest "judges whether or not the data located by the locating information comes under a predetermined category based on a character string....."

As to the above argument [b], Examiner disagree with the applicant because firstly, Legall is directed to integrated search tool, more specifically search tool comprising search engine that searches information on the internet [see Abstract, fig 1], secondly, Legall specifically suggests for example searching specific information based on search criteria, further search criteria including keyword, or word(s) with logical operators such as AND, OR, NOT and like as detailed in page 13, line 8-17, character string corresponds to user query having keyword(s), thirdly, Legall specifically teaches categories, sub categories that including data or topic or information listed based on the user query page 4, line 18-25, page 5, line 1-2, line 8-13, page 8, line 8-12, fig 3C].

c) Applicant's assertion at page 15, Claims 11,30,44, that "Legall does not discuss or suggest "requesting a server on a network to collect pieces of locating information"

As to the above argument [c], examiner disagree with the applicant because, firstly, Legall directed to search engine for searching specific information on the internet, secondly, internet or world wide web lets people or user seeking information on the



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Internet switch from server to server and database to database based on the keywords or phrases of interest, it is clear from Legall's prior art that internet web server supports clients and provides information [see fig 1], as best understood by the examiner, www or internet or net is a system that links computers worldwide in a network, therefore, requesting a server on a network to collect required information not only integral part of Legall's teaching, but also Legall specifically teaches the same, see fig 3A-3B.

d) Applicant's assertion at page 15, Claims 1,15,35 that Legall does not discuss or suggest "searching content data corresponding to predetermined conditions based on a character string....."

As to the above argument [d], as best understood by the examiner, Legall is directed to searching information using user query that including combination of specific keyword(s) or phrase(s) and logical operators such as AND, OR and like as detailed at page 13, line 8-17, it is also noted that predetermined condition is integral part of Legalli's teaching because the search results produce multiple result(s) that meet search criteria as detailed in page 11, line 9-13.

As best understood by the examiner, the only substantive amendments to the claims involve changing the language of "based on a character string included in a data file including the data" (claim 1, for example), "a control unit requesting a server on a network to collect....."(Claim 11, for example). However, it is unclear to Examiner how this change in any way distinguishes the claimed invention from the system of

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Legall et al., for similar reasons as those presented above. Since applicant has not specified how the amended language distinguishes the claimed invention from Legall et al., beyond simply asserting that it does not without any further support, Examiner is unable to determine how the above-noted language including added new claims 51-56 distinguishes the claimed invention from at least the above noted citations from the Legall et al., which indicate a integrated search using internet and other information resources for user query.

Therefore, Applicant's remarks are deemed not to be persuasive and claims 1-56 stand rejected under 35 USC 102(a and b) as being clearly anticipated by Legall et al.,

### ***Conclusion***

#### **The prior art made of record**

a. WO 98/43183

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure

b. US Patent No. 6486892

c. US Patent No. 6163316

d. US Patent No. 6351467

e. US Patent No. 6081263

f. US Patent No. 6460181

g. WO 00/26762

h. Aseel Ibrahim et al., Multimodal Dialogue systems for interactive TV applications, publishing date unknown, pp 1-6

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Srirama Channavajjala whose telephone number is (703) 308-8538. The examiner can normally be reached on Monday-Friday from 8:00 AM to 5:30 PM Eastern Time. The TC2100's Customer Service number is (703) 306-5631.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene, can be reached on (703) 305-9790. The fax phone numbers for the organization where the application or proceeding is assigned are as follows:

703/746-7238	<b>(After Final Communication)</b>
703/872-9306	<b>(Official Communications)</b>
703/746-7240	<b>(For Status inquiries, draft communication)</b>

Any inquiry of general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.

sc   
Patent Examiner.  
February 10, 2004.